

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X		
In re:	:	Chapter 11
	:	
ALL YEAR HOLDINGS LIMITED,	:	Case No. 21-12051 (MG)
	:	
Debtor. ¹	:	
	:	
Fed. Tax Id. No. 98-1220822	:	
-----X		
ZELIG WEISS,	:	
	:	
Plaintiff,	:	Adv. Proc. No. 22-01115 (MG)
	:	
v.	:	
ALL YEAR HOLDINGS LIMITED, YG WV LLC,	:	
	:	
Defendants, and	:	
	:	
WYTHE BERRY MEMBER LLC, ²	:	
	:	
Nominal Defendant.	:	
-----X		

JOINT STATEMENT OF UNDISPUTED FACTS

¹ The Debtor's principal offices are located at 199 Lee Avenue, Suite 693, Brooklyn, New York 11211.

² Wythe Berry Member LLC is named as a nominal defendant in light of the nature of the claims asserted in the Adversary Proceeding.

Pursuant to paragraph 3 of the *Case Management & Scheduling Order* [Adv. Docket No. 8], entered by this Court on August 3, 2022, Zelig Weiss (“Plaintiff” or “Weiss”), and All Year Holdings Limited (the “Debtor” or “All Year”), as debtor in possession in the above-captioned chapter 11 case, with Wythe Berry Member LLC (“Member LLC”) and YG WV LLC (“YGWV”) (collectively the “Defendants,” and together with Weiss, the “Parties”), respectfully submit the following statement of undisputed facts.

The Parties reserve all rights as to the relevance and/or materiality of all stipulated facts included below and the documents annexed hereto.

STATEMENT OF UNDISPUTED FACTS

1. On December 14, 2021 (the “Petition Date”), All Year filed with this Court a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Petition”).
2. All Year is a British Virgin Islands Company founded in 2014.
3. All Year is a corporation which possesses more than one asset in the regular course of its business.
4. YGWV was organized as a New York limited liability company on February 1, 2017.³
5. Prior to the filing of the Petition, All Year was the sole member of YGWV and held 100% of its ownership interests.
6. A true and correct copy of the Articles of Organization of YGWV is attached hereto as **Exhibit A**.
7. A true and correct copy of the Limited Liability Company Agreement of YGWV is attached hereto as **Exhibit B**.

³ The parties disagree as to whether YGWV remains a limited liability company, whether All Year continues to be the sole member of YGWV and whether YGWV continues to be the managing member of Wythe Berry Member LLC. In stipulating that these facts *were* accurate “Prior to the filing of the Petition,” or otherwise, Defendants reserve all of their rights, and waive none, to argue that they remain accurate.

8. Member LLC is a Delaware Limited Liability Company formed on February 1, 2017.
9. A true and correct copy of the Certificate of Formation of Member LLC is attached hereto as **Exhibit C**.
10. A true and correct copy of the Limited Liability Company Agreement of Member LLC is attached hereto as **Exhibit D**.
11. Prior to the filing of the Petition, Member LLC had two members, YGWV and Weiss, each of whom owned 50% of the interests in Member LLC.
12. Pursuant to the organizational documents establishing Member LLC, YGWV was designated as the managing member of Member LLC.
13. Member LLC is the sole member of Wythe Berry Fee Owner LLC (“**Fee Owner**”).
14. A true and correct copy of the Certificate of Formation of Fee Owner is attached hereto as **Exhibit E**.
15. A true and correct copy of the Limited Liability Company Agreement of Fee Owner, is attached hereto as **Exhibit F**.
16. Fee Owner owns the William Vale Hotel and its adjacent amenities (the “**WV Complex**”).
17. Fee Owner is a Delaware Limited Liability Company formed on February 1, 2017.
18. A true and correct copy of the Verified Complaint, and accompanying exhibits, filed by Fee Owner in the New York State Supreme Court action styled *Wythe Berry Fee Owner LLC v. Wythe Berry LLC et al.*, Index No. 514152/2021 (the “**State Court Action**”) is attached hereto as **Exhibit G**.
19. A true and correct copy of the Decision and Order entered in the State Court Action on December 6, 2021 (a) denying Wythe Berry LLC’s motion to dismiss and (b) awarding Fee Owner use and occupancy pendente lite (the “**U&O Order**”) is attached hereto as **Exhibit H**.
20. A true and correct copy of the Notice of Appeal filed, on behalf of Weiss, in the State Court Action, on December 7, 2021 appealing the U&O Order is attached hereto as **Exhibit I**.
21. A true and correct copy of the Order entered in the State Court Action on January 13, 2022 (a) granting Fee Owner’s motion to compel compliance with certain subpoenas and (b) denying Wythe Berry LLC’s motion to quash the same (the “**Discovery Order**”) is attached hereto as **Exhibit J**.

22. A true and correct copy of the Notice of Appeal filed, on behalf of Weiss, in the State Court Action, on January 14, 2022 appealing the Discovery Order is attached hereto as **Exhibit K**.
23. A true and correct copy of the Motion RE Undertaking filed, on behalf of Weiss, in the State Court Action, on August 1, 2022 requesting entry of an order (a) either (i) directing the Kings County Clerk to accept an undertaking, or (ii) fixing the sum of an undertaking, and (b) extending *nunc pro tunc* the time for Wythe Berry LLC to comply with the obligations of the U&O Order and granting related relief is attached hereto as **Exhibit L**.⁴
24. No legal representative of All Year within 180 days of the Petition Date agreed in writing to (i) continue the existence of YGWV and (ii) admit the legal representative or its assignee as a member of YGWV, each effective as of the Petition Date.
25. No certificate of amendment of YGWV's articles of organization indicating the continuation of YGWV has been filed with the New York Department of State.
26. The Member LLC Agreement is dated as of February 28, 2017.
27. YGWV was established on or about February 1, 2017, upon its filing of articles of organization with the New York Secretary of State.
28. YGWV's limited liability company agreement was entered on February 28, 2017.
29. Pursuant to the Plan, All Year seeks, *inter alia*, approval of an Investment Agreement dated March 11, 2022, by and among All Year, Paragraph Partners LLC or its designee, and, solely with respect to certain specified sections therein, Mishmeret Trust Co. Ltd. ("Mishmeret"), as trustee for the Debtor's Israeli notes (the "Investment Agreement").
30. A true and correct copy of the Investment Agreement, and all amendments thereto, is attached hereto as **Exhibit M**.
31. Weiss did not consent to any direct or indirect transfer of YGWV's interests in Member LLC to any third-party.

⁴ Wythe Berry Fee Owner LLC, the plaintiff in the State Court Action, intends to oppose the Motion Re Undertaking and reserves all of its rights and waives none with respect thereto. Said opposition is presently due to be filed on or before October 6, 2022.

Dated: August 17, 2022
New York, New York

By: /s/ Nicholas A. Bassett
Kristopher M. Hansen
Nicholas A. Bassett
Jason M. Pierce
Will Clark Farmer
PAUL HASTINGS LLP
200 Park Avenue
New York, New York 10166
Telephone: (212) 318-6000
Facsimile: (212) 319-4090
krishansen@paulhastings.com
nicholasbassett@paulhastings.com
jasonpierce@paulhastings.com
willfarmer@paulhastings.com

Counsel to Zelig Weiss

By: /s/ Robert S. Berezin
WEIL, GOTSHAL & MANGES LLP
Gary T. Holtzer
Matthew P. Goren
Robert S. Berezin
Richard D. Gage
Angelo G. Labate
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007

Attorneys for Defendants